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the verdict rendered in the state court, on which the judgment was based, was sustained by sufficient evidence and was rendered under proper instructions, and hence that the judgment was for a wilful and malicious injury, from which a discharge in bankruptcy would not relieve, under the rule that a judgment for damages under a count for trespass cannot lawfully be rendered, except on proof of a wilful and malicious injury.

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**Denial of the Right of a Foreign Corporation to Remove a Cause to the Federal Court.**—The state of Mississippi by Laws 1908, c. 122, attempted to forfeit the right of a foreign corporation doing business in the state to engage in intrastate commerce within the state, if it removed any action against it in the state court to the federal court. The Supreme Court of Mississippi in passing on the validity of such act in *State v. Louisville & Nashville R. Co.*, 51 Southern Reporter, 918, points out that it may be a matter of great practical difficulty to separate the intrastate business of a carrier from its interstate business. Such act, however, was explicit in limiting the prohibition to intrastate business of corporations, and on its face it could not be held invalid under the commerce clause of the federal Constitution, unless the court went to the length of holding that a state altogether loses the right to exclude or regulate any foreign corporation whenever a part of its business is interstate commerce. As to this, the court said that the reserved right of the state to control the purely domestic business of a carrier was as sacred and should be as jealously guarded as the granted right of Congress to regulate its interstate business, and the power of the state was not lost because of the practical difficulty of severing the two kinds of commerce.

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**Judicial Notice of the Contracting of Disease by Animals.**—Certain jacks were shipped from Columbia, Tenn., to Kansas City, Mo. The shipment passed into the control of several carriers, and it was claimed that by reason of the combined and joint negligence of the carriers the animals were permitted to contract disease from which a number of them died. In reviewing the evidence, the Court of Appeals of Missouri in *Gillespie v. Louisville & Nashville R. Co.*, 129 Southwestern Reporter, 277, found that there was no evidence tending to prove how long it took a jack to contract pneumonia after his exposure, and there was no testimony showing at what time the infection was communicated to the deceased animals. It is known from common experience that some diseases develop within a certain period, and that the time is not the same in all cases, or with all diseases, but the court does not know from such experience and cannot take judicial notice of the fact that pneumonia develops in a jack within 24 or 48 hours after his exposure. In fixing liability on the

carriers, it was not sufficient to show that the animals standing on the track were more likely to contract pneumonia than if standing in a barn, or in a car while it was moving, but it was necessary to show that the disease was contracted by reason of the fact that they were left standing on the side track.

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**Injuries to Oyster Bed by Public Improvement.**—In the case of the *Lewis Blue Point Oyster Cultivation Co. v. Briggs*, 91 *Northeastern Reporter*, 846, a grant from the king of England, before the separation of the colonies from the mother country, of land for an oyster bed under navigable waters, to an individual, was held to be a grant of the crown's private property, subject to the public rights in the navigable waters held in trust by the crown for the people, and, under the right of conquest and the treaty of peace after the Revolutionary War, the title to the navigable waters went to the original states, and when the Constitution was adopted it became subject to the rights surrendered thereby to the United States. Judge Vann who wrote the opinion said that plaintiff had no right in the land that was not subject to the power of the United States to make improvements, without compensation, and that it ran the risk when it planted oysters that the crop might be interfered with whenever Congress decided to dig a channel or otherwise improve navigation. He intimated however that Congress was not apt to deal ungenerously with those who have good ground for relief.

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**Contract by Telephone Company in Restraint of Trade.**—A telephone company contracted for the installment and maintenance of a private telephone exchange in defendant's hotel for nine years. It was stipulated that the apparatus should remain the property of the telephone company, and that no instruments and wires other than those furnished by it should be placed in the hotel or operated in connection with the exchange, and that such apparatus should not be used in connection with any other exchange than that of the company. The Court of Appeals of New York, in passing on the validity of such contract in *Central New York Telephone and Telegraph Company v. Averill*, 92 *Northeastern Reporter*, 206, concluded that the provision giving the telephone company the exclusive right to operate its exchange in the hotel was in partial restraint of trade in that it prevented persons having other telephone systems from connecting with the hotel, and, in view of the public interest which attaches to the telephone business by reason of its operation under a franchise and the nature of the business, such part of the contract was void.